


JAMES D. PATERA, SUPERINTENDENT,)	Case No. 05-37
OELWEIN COMMUNITY SCHOOL DISTRICT,)	DIA No. 06BEE014
)	
Complainant,)	License No. 359251
)	
and)	
)	
KEITH MEDEMA,)	
)	
Respondent.)	Final Order

The Board considered the proposed decision at its regular meeting on May 3, 2006. After examining the proposed decision, the Board unanimously approved a motion not to initiate review of the proposed decision. No appeal was received by the Board within the time allowed by rule.

THEREFORE, pursuant to Iowa Code section 17A.15(3) (2005) and 282 IAC 11.27(2), the Proposed Decision recommending the issuance of a public Letter of Reprimand stands as the Board's final ruling in this matter. **The Respondent is hereby reprimanded based upon the findings and conclusions of the April 12, 2006, Proposed Decision.**


George J. Maurer, Ed.D., Executive Director
On behalf of the Board

IOWA BOARD OF EDUCATIONAL EXAMINERS

JAMES D. PATERA, SUPERINTENDENT,)	Case No. 05-37
OELWEIN COMMUNITY SCHOOL DISTRICT,)	DIA No. 06BEE014
)	
Complainant,)	License No. 359251
)	
and)	
)	
KEITH MEDEMA,)	Order Regarding
)	Proposed Decision
Respondent.)	

This matter came before the Board of Educational Examiners upon Complaint. An investigation was conducted and the Board found probable cause to move the case forward to hearing. The hearing was held before Administrative Law Judge Margaret LaMarche on April 7, 2006. On April 12, 2006, Judge LaMarche issued a proposed decision. The proposed decision was served upon the Respondent, the Complainant, and the Board.

The Board considered the proposed decision at its regular meeting on May 3, 2006. After examining the proposed decision, the Board unanimously approved a motion not to initiate review of the proposed decision.

ORDER

THEREFORE, the proposed decision in this matter will stand as the Board's final ruling in this matter unless a timely appeal from the proposed decision is initiated by one of the parties, pursuant to Board rule 282 I.A.C. 11.28(1).

Dated this 15 day of May, 2006.



George J. Maurer, Ed.D., Executive Director
On behalf of the Board

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JAMES D. PATERA, SUPERINTENDENT)	DIA NO. 06BEE014
OELWEIN COMMUNITY SCHOOL DISTRICT,)	CASE NO. 05-37
)	
COMPLAINANT,)	
)	License No. 359251
AND)	
)	
KEITH MEDEMA,)	
)	PROPOSED DECISION
RESPONDENT)	

On October 19, 2005, James Patera, Superintendent of the Oelwein Community School District (Complainant), filed a Complaint against Keith Medema (Respondent) with the Iowa Board of Educational Examiners (Board). The Complaint alleged that Respondent submitted a resignation to Complainant on August 21, 2005, effective August 23, 2005 and then left his employment without first obtaining a release.

On February 2, 2006, the Board found probable cause to proceed to hearing. On February 16, 2006, the Board issued a Notice of Hearing and Statement of Matters Asserted (Confidential), which identified the issue as whether Respondent abandoned his written professional employment contract without a prior unconditional release from his employer, in violation of 282 IAC 25.3(5)(a)(3). The Notice of Hearing and Statement of Matters Asserted were sent to Respondent by restricted certified mail and delivered on February 28, 2006. Respondent filed an Answer on March 6, 2006. Complainant filed a request to appear by telephone, which was granted.

The hearing was held before the undersigned administrative law judge on April 7, 2006 at 1:00 p.m. in room 320, Lucas State Office Building, Des Moines, Iowa. Complainant appeared by telephone and was self-represented. Respondent did not appear for the hearing and did not call in a telephone number where he could be reached. The hearing was recorded.

THE RECORD

The record includes the Complaint filed 10/19/05 and attached letter of resignation; Notice of Hearing and Statement of Matters Asserted (Confidential); Answer; Complainant Request to

Present; Testimony by Telephone; Order Allowing Telephone Testimony; and the testimony of James Patera.

FINDINGS OF FACT

1. Respondent currently holds Iowa license no. 359241, with endorsements as a K-6 Counselor and 7-12 Counselor. Respondent was initially employed by the Oelwein Community School District as a high school counselor for the 2003-2004 school year. On April 25, 2005, Respondent signed a contract with the Oelwein School District to serve as the high school counselor during the 2005-2006 school year. Respondent was an outstanding counselor and was highly respected in the community. (Testimony of James Patera)
2. On August 21, 2005, Respondent submitted a letter of resignation to the Oelwein Community School District, effective August 23, 2005. Respondent apologized for his untimely resignation, but stated that he had recently been offered employment with the Sun Prairie School District in Sun Prairie, Wisconsin. Respondent's wife had accepted a position in that area in mid-summer. Respondent stated, "As much as I would love to continue working with the Oelwein School District, its location would be a barrier to my obligations to my family." Respondent expressed appreciation to the school district and its principal for making his experience at Oelwein extremely rewarding and fulfilling. (Testimony of James Patera; Resignation Letter dated 8/21/05)
3. The Oelwein High School principal contacted Respondent and asked him to consider staying on while the school district searched for his replacement. The school district offered to release Respondent pending finding a suitable replacement. Respondent refused this offer, stating that his family circumstances required him to leave on August 23, 2005. The school district found a retired person who served as a substitute counselor for most of the first semester. For the second semester, the school district contracted with a private firm to provide counseling services five days a week. (Testimony of James Patera)
4. In his Answer, Respondent admits that he did not fulfill his contract with the Oelwein School District for the 2005-2006 school year. Respondent explained that he and his wife had been trying for some time to return to Wisconsin to help his brother care for their widowed mother, who has multiple sclerosis and is confined to a wheelchair. Respondent's wife accepted employment

in Wisconsin in June but Respondent was not offered a position until August. Respondent and his wife have a one-year-old child. Respondent accepted the position in Wisconsin because he felt that his family obligations outweighed his contract obligations. (Answer)

CONCLUSIONS OF LAW

I. Failure to Appear

282 IAC 11.7(1) provides, in part, that a notice of hearing may be served by personal service as provided in the Iowa Rules of Civil Procedure or by certified mail, return receipt requested.

Respondent was properly served with Notice of Hearing and Statement of Matters Asserted by restricted certified mail on February 28, 2006. Respondent failed to appear for the hearing, either in person or by telephone.

282 IAC 11.23(1) provides that if a party fails to appear in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

II. The Violation

The legislature created the Board of Educational Examiners and delegated to it exclusive licensing authority, including the authority to develop a code of professional rights and responsibilities, practices, and ethics, which shall, among other things, address the failure of a practitioner to fulfill contractual obligations under section 279.13... Iowa Code section 272.2(1)(a) (2005).

In a case alleging the failure of a practitioner to fulfill contractual obligations, the person who files a complaint with the Board, or the complainant's designee, shall represent the complainant in a disciplinary hearing conducted in accordance with this chapter. Iowa Code section 272.2(4) (2005).

Pursuant to its statutory authority, the Board has promulgated the Code of Professional Conduct and Ethics at 282 IAC chapter 25. 282 IAC 25.3(5)"a"(3) provides, in relevant part:

25.3(5) Standard V- violations of contractual obligations

a. Violation of this standard includes:

...
(3) Abandoning a written professional employment contract without prior unconditional release by the employer.

The preponderance of the evidence established that Respondent abandoned his written professional employment contract with the Oelwein Community School District without receiving a prior unconditional release, in violation of 282 IAC 25.3(5)"a"(3). The school district was willing to release Respondent from his contract pending finding a suitable replacement, but Respondent refused this offer and elected to leave his teaching position on August 23, 2005.

III. Sanction

Board rules provide for a range of sanctions, including but not limited to license suspensions and public letters of reprimand. 282 IAC 11.33. Absent significant mitigating or aggravating factors, the Board of Educational Examiners has previously issued a public letter of reprimand for a first violation of 282 IAC 25.3(5)"a"(3). Since Respondent chose not to appear for the hearing, either in person or by telephone, the only information that he provided was in his Answer to the Complaint. Based on Respondent's Answer, it appears that he had significant family reasons for his decision to seek and accept employment in Wisconsin. Nevertheless, Respondent also had a binding contractual obligation to the Oelwein School District. Respondent left the Oelwein School District with only two days' notice and just prior to the start of a new school year. The circumstances justify a public letter of reprimand.

ORDER

IT IS THEREFORE ORDERED that for abandoning a professional written employment contract prior to receiving an unconditional release from his employer, in violation of 282 IAC 25.3(5)"a"(3), Respondent Keith Medema (License no. 359251) shall be issued a public letter of reprimand. 282 IAC 11.33(6).

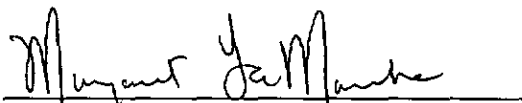
Appeal Rights

Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a

motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 11.28. (17A,272). A motion to vacate shall state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion. 282 IAC 11.23(3).

282 IAC 11.28 provides that a proposed decision may be appealed to the Iowa Board of Educational Examiners (Board) by a party who is adversely affected by the decision. An appeal is commenced by serving a notice of appeal on the Board within 60 days after the issuance of the proposed decision. The notice of appeal must be signed by the appealing party or a representative of that party, and must contain a certificate of service. The notice shall specify the parties initiating the appeal, the proposed decision or order appealed from, the specific findings or conclusions to which exception is taken and any other exceptions to the decision and order, the relief sought, and the grounds for relief.

Dated this 12th day of April, 2006



Margaret LaMarche

Administrative Law Judge
Division of Administrative Hearings
Iowa Department of Inspections and Appeals
Lucas State Office Building-Third Floor
Des Moines, Iowa 50319

cc: Keith Medema
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Beaver Dam, WI 53916 (CERTIFIED)

James Patera, Superintendent
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